

The Director

Central Intelligence Agency

Approved For Release 2004/03/15 : CIA-RDP80M00165A001800080022-4

Executive Registry

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Washington, D.C. 20505

12 DEC 1977

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1 Congress

Honorable Richardson Preyer, Chairman
Subcommittee on Government Information
and Individual Rights
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Many thanks for sending me the Subcommittee's "Citizen's Guide" on using the Freedom of Information and Privacy Acts in requesting government documents. We have already ordered several hundred copies for distribution within the Agency and I intend to recommend its usage in training programs.

As you so kindly suggested, I have solicited comments and suggestions from some of our people who are charged with the responsibility of administering the laws. Enclosed here is a paper dealing with both specific and general comments on the Guide which we hope your Subcommittee will take under consideration.

Overall, the Guide should be very helpful to potential requesters of public records and your Subcommittee is to be commended for the effort required to compile it. As you know, I have taken the position that this Agency should be as forthcoming as possible in complying both with the intent and spirit of these laws.

Yours sincerely,

STANSFIELD TURNER

Enclosure

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OLC 77-5018/a

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Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER

Enclosure

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OLC:ME:sf (29 Nov 77)

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COMMENTS AND SUGGESTIONS BY CIA
"A CITIZEN'S GUIDE ON HOW TO USE THE FREEDOM OF
INFORMATION ACT AND PRIVACY ACT IN REQUESTING
GOVERNMENT DOCUMENTS"

House Report No. 95-793

A. Recommendation re Changes in Wording to Improve Accuracy of the Guide.

1. Re FOIA Exemption (b)(1)(p. 10)

In light of recent judicial determinations, we believe that the judge's role in examining documents in camera is too strongly stated in the analysis of this section. The courts generally rely on the affidavits of Government officers which detail good faith in compliance with proper classification procedures as evidence that documents were properly classified. The general rule is that it is only where the record is vague or the Agency claims are too sweeping or suggestive of bad faith that the trial court will conduct an in camera examination to look for segregable non-exempt material.

Thus, the sentence beginning "Judges are now authorized..." should be continued to read "whenever the record is vague or the agency claims too sweeping or suggestive of bad faith," or language similar thereto.

2. Re FOIA Exemption (b)(3)(p. 11)

There is an imprecision of language in this section which may lead the reader to believe that (b)(3) exemptions are permissive rather than mandatory. Where another statute expressly forbids release of information, this information is exempt from disclosure under (b)(3).

Thus, the paragraph beginning "This exemption permits the government..." should be changed to read "This provision exempts from release under the Freedom of Information Act information which other laws specifically dictate must be withheld."

3. Re Privacy Act: Making a Request (p. 18)

In the first sentence the Guide states, "You can make a request in writing, by telephone, or in person." The Agency, with rare exceptions, requires that requests be in writing.

We think that this policy is followed generally throughout the Government. It is essential when handling Privacy Act requests from non-Agency individuals in that the written request constitutes the requester's proof of identity. This helps to ensure against invasion of other individuals' privacy.

4. (Same section, third paragraph - p. 19)

The Guide suggests that the requester might want to "consider" having his signature notarized. The CIA requires this of Privacy Act requesters, again, with rare exceptions. Again, this helps to ensure against the release of information to unauthorized individuals.

5. Re Privacy Act Exemption (j)(1): Files maintained by the CIA (p. 21)

There is a factual error in (j)(1) concerning which CIA records are available to requesters under the Privacy Act. It is not true that "Consequently... you would probably not be allowed to inspect and correct records about yourself..." The Director did not see fit to exempt the CIA from the provisions of the Privacy Act which entitle persons access to personal records and the right to demand the amendment of those records concerning them which they can prove are inaccurate, incomplete, or irrelevant. CIA Privacy Act regulations, 32 C.F.R. Part 1901, provide that an individual may request access to records or information concerning himself, and is entitled to receive this information unless it is specifically exempted from procedures established by this regulation and from certain provisions of the Privacy Act, 32 C.F.R. 1901.1(a). Thus, the language in corrected form, or language similar thereto, should read:

CIA records are generally accessible for inspection and correction except those records which have been specifically exempted by regulation, including

- (1) polygraph records;
- (2) those records which consist of or pertain to or would otherwise reveal intelligence sources and methods; and
- (3) those records which consist of documents or information provided by foreign, federal state, or other public agencies or authorities.

B. General Comments

1. On page 22, last sentence of first full paragraph, the Guide recommends that both the Privacy Act and the Freedom of Information Act be cited when persons request personal records from the CIA. This is unnecessary inasmuch as it is the Agency's policy to release to requesters all records available under either of the Acts. There is no need to reference the FOIA, and citing both Acts only leads to confusion and misunderstanding on the part of the requester.
2. An Introductory General Outline at the beginning of the FOIA and Privacy Act sections with bold-face type and page numbers would assist the reader in determining whether the Act was relevant to his needs and to help him find the specific information that he might need in less time.
3. A reiteration at the top of page 51 (Appendix 3) in bold-face type that "FOIA Coordinator" should be clearly written on the envelope. Much time is lost in funneling the request to the correct person.
4. It should be more clearly spelled out that the agencies have promulgated regulations, published in the Federal Register, which detail procedures to be followed in filing FOIA/PA requests and appeals. These could be included as an addendum to this volume or in a separately available booklet.

RICHARDSON PREYER, N.C., CHAIRMAN
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NINETY-FIFTH CONGRESS

Congress of the United States

House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

Executive Registry
77-97742
Recd 15 Nov

November 11, 1977

Admiral Stansfield Turner
Director, Central Intelligence Agency
Washington, D. C. 20505

Dear Admiral Turner:

As you know, the Government Information and Individual Rights Subcommittee of the House Government Operations Committee has oversight responsibility for the Freedom of Information and Privacy Acts.

It has come to my attention as Chairman of this Subcommittee that many citizens are confused concerning how to use these two acts. I also understand that there is substantial variation among Federal agencies in the implementation of the laws. For these reasons, the Subcommittee has prepared a guide to the acts which was issued as a report by the full Committee. A copy is enclosed for your information.

As you will note on page 1, the Committee recommends that agencies use this handbook in training programs for those charged with the responsibility of administering the laws. Therefore, you might want to consider distributing the guide among your personnel handling FOIA and Privacy Act inquiries. Copies can be obtained from the Government Printing Office.

I hope that the guide will help facilitate the processing of requests under these acts. If you have any suggestions for further action by the Subcommittee along these lines, please do not hesitate to let me know.

Sincerely,

Richard Preyer
Richardson Preyer
Chairman

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A CITIZEN'S GUIDE ON HOW TO USE THE
FREEDOM OF INFORMATION ACT AND THE
PRIVACY ACT IN REQUESTING GOVERNMENT
DOCUMENTS

THIRTEENTH REPORT

BY THE

COMMITTEE ON GOVERNMENT
OPERATIONS



NOVEMBER 2, 1977.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

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Routing Slip

TO:

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SUSPENSE

23 Nov 1977

Date

Remarks: TO 10: Please prepare DCI acknowledgment.

It may offer an opportunity to make some
constructive suggestions. Also suggest you obtain
additional copies of the enclosure for appropriate
distribution here.

3637 (5-77)

16 Nov 77

Date

B. C. Evans

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